

CHAPTER 78
PROPERTY TAX EXEMPTIONS
[Prior to 12/17/86, Revenue Department[730]]

701—78.1(427,441) Responsibility of local assessors.

78.1(1) The assessor shall determine the taxable status of all property. If an application for exemption is required to be filed under Iowa Code subsection 427.1(14), the assessor shall consider the information contained in the application in determining the taxable status of the property. The assessor may also request from any property owner or claimant any additional information necessary to the determination of the taxable status of the property. However, the assessor shall not base the determination of the taxable status of property solely on the statement of objects or purposes of the organization, institution, or society seeking an exemption. The use of the property rather than the objects or purposes of the organization, institution, or society shall be the controlling factor in determining the taxable status of property. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 N.W.2d 509; *Northwest Community Hospital v. Board of Review of Des Moines*, 229 N.W.2d 738.)

78.1(2) In determining the taxable status of property, the assessor shall construe the appropriate exemption statute and these rules in a strict manner. If there exists any doubt as to the taxable status of property, the property shall be subject to taxation. The burden shall be upon the organization, society, or institution to show that the exemption should be granted. (*Evangelical Lutheran G.S. Society v. Board of Review of Des Moines*, 200 N.W.2d 509; *Southside Church of Christ of Des Moines v. Des Moines Board of Review*, 243 N.W.2d 650; *Aerie 1287, Fraternal Order of Eagles v. Holland*, 226 N.W.2d 22.)

78.1(3) If the assessor determines that all or part of a property is subject to taxation, the assessor shall notify the taxpayer by the issuance of an assessment roll as provided in Iowa Code sections 441.26 and 441.27. If the assessor determines that property has been erroneously exempted from taxation, the assessor shall revoke the exemption for the current assessment year but not for prior assessment years.

78.1(4) The assessor's determination of the taxable status of property may be appealed to the local board of review pursuant to Iowa Code section 441.37.

This rule is intended to implement Iowa Code sections 427.1 and 441.17(11).

701—78.2(441) Responsibility of local boards of review.

78.2(1) If the board of review determines that property has been erroneously exempted from taxation, the board of review shall revoke the exemption for the current assessment year, but not for prior assessment years, and give notice to the taxpayer as provided in Iowa Code section 441.36.

78.2(2) If a board of review acts in response to a protest arising from an assessor's determination of the taxable status of property, the board of review shall notify the taxpayer of its disposition of the protest in accordance with the provisions of Iowa Code section 441.37.

This rule is intended to implement Iowa Code sections 441.35(3), 441.36 and 441.37.

701—78.3(427) Responsibility of director of revenue and finance. The director may revoke or modify an exemption on property found to have been erroneously granted by the local taxing officials. Any taxpayer or taxing district may request that the director revoke or modify an exemption or the director may on the director's own determination revoke or modify an exemption. The director may revoke or modify an exemption for the tax year commencing in the tax year in which the request is made to the director or the tax year commencing in the tax year in which the director's own motion is filed. The director shall hold a hearing on the appropriateness of the exemption prior to issuing an order for revocation or modification. The director's order to revoke or modify an exemption may be appealed in accordance with Iowa Code chapter 17A or in the district court of the county in which the property is located.

This rule is intended to implement Iowa Code section 427.1(16) as amended by 2001 Iowa Acts, House File 715.

701—78.4(427) Application for exemption.

78.4(1) Each society or organization seeking an exemption under Iowa Code section 427.1(5), 427.1(8), or 427.1(21) shall file with the appropriate assessor a statement containing the following information:

- a. The legal description of the property for which an exemption is requested.
- b. The use of all portions of the property, including the percentage of space not used for the appropriate objects of the society or organization and the percentage of time such space is so utilized.
- c. A financial statement showing the income derived and the expenses incurred in the operation of the property.
- d. The name of the organization seeking the exemption.
- e. If the exemption is sought under Iowa Code subsection 427.1(8), the appropriate objects of the society or organization.
- f. The book and page number on which is recorded the contract of purchase or the deed to the property and any lease by which the property is held.
- g. An oath that no persistent violations of the laws of the state of Iowa will be permitted or have been permitted on such property.
- h. The signature of the president or other responsible official of the society or organization showing that information contained in the claim has been verified under oath as correct.

78.4(2) The statement of objects and uses required by Iowa Code subsection 427.1(14) shall be filed only on forms prescribed by the director of revenue and finance and made available by assessors.

78.4(3) Applications for exemptions required under Iowa Code subsection 427.1(14) must be filed with the assessor not later than February 1 of the year for which the exemption is requested.

78.4(4) If a properly completed application is not filed by February 1 of the assessment year for which the exemption would apply, no exemption shall be allowed against the property. (1964 O.A.G. 437.)

This rule is intended to implement Iowa Code subsection 427.1(14) as amended by 2001 Iowa Acts, House File 736.

701—78.5(427) Partial exemptions. In the event a portion of property is determined to be subject to taxation, the taxable value of such property shall be an amount which bears the same relationship to the total value of the entire property as the area of the portion subject to taxation bears to the area of the entire property. If a portion of a structure is subject to taxation, a proportionate amount of the value assigned to the land upon which the structure is located shall also be subject to taxation.

This rule is intended to implement Iowa Code section 427.1.

701—78.6(427,441) Taxable status of property.

78.6(1) The status of property on July 1 of the fiscal year which commences during the assessment year determines its eligibility for exemption in situations where no claim is required to be filed to procure a tax exemption. If the property is in a taxable status on July 1, no exemption is allowable for that fiscal year. If the property is in an exempt status on July 1, no taxes are to be levied against the property during that fiscal year.

Exceptions to this rule are as follows:

a. Land acquired by the state of Iowa or a political subdivision thereof after July 1 in connection with the establishment, improvement or maintenance of a public road shall be taxable for that portion of the fiscal year in which the property was privately owned.

b. All current and delinquent tax liabilities are to be canceled and no future taxes levied against property acquired by the United States or its instrumentalities, regardless of the date of acquisition, unless the United States Congress has authorized the taxation of specific federally owned property. (1980 O.A.G. 80-1-19.) The following exceptions apply:

(1) Real and personal property owned by the Federal Housing Authority (FHA) and real property owned by the Federal Land Bank Association is subject to taxation and any tax liabilities existing at the time of the acquisition are not to be canceled. However, the personal property of the Federal Land Bank Association is exempt from taxation. (1982 O.A.G. 82-1-16; 12 USCS §2055.)

(2) Existing tax liabilities against property acquired by the Small Business Administration are not to be canceled if the acquisition takes place after the date of levy. However, no taxes are to be levied if the acquisition takes place prior to the levy date or for subsequent fiscal years in which the Small Business Administration owns the property on July 1. (15 USCS §646.)

78.6(2) The status of property during the fiscal year for which an exemption was claimed determines its eligibility for exemption in situations where a claim is required to be filed to procure a tax exemption. If the property is used for an appropriate purpose for which an exemption is allowable for all of the fiscal year for which the exemption is claimed, no taxes are to be levied against the property during that fiscal year. If the property for which an exemption has been received is used for an appropriate purpose for which an exemption is allowable for only a portion of the fiscal year for which the exemption is claimed, the taxes shall be prorated in accordance with the period of time the property was in a taxable status during the fiscal year.

This rule is intended to implement Iowa Code sections 427.1(1), 427.1(2), 427.2, 427.18, and 427.19.

701—78.7 Personal property. Rescinded IAB 10/14/92, effective 11/18/92.

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